

# HOG PROCUREMENT AGREEMENT WITH PRODUCER AFFILIATED WITH \_\_\_\_\_

This HOG PROCUREMENT AGREEMENT dated as of \_\_\_\_\_, 2000, is made and entered into by and between JOHN MORRELL & CO., a corporation incorporated and existing under the laws of the State of Delaware (hereinafter, "Morrell"), and \_\_\_\_\_ (hereinafter, "Producer").

## RECITALS:

- A. Morrell owns and operates hog processing plants in Sioux Falls, South Dakota, Sioux City, Iowa, and in other locations.
- B. Producer raises hogs on its own facilities and/or on facilities owned by others under agreement with Producer, and has been recommended by \_\_\_\_\_ to enter into this Agreement.
- C. Morrell desires to secure from Producer and Producer desires to provide to Morrell a dependable supply of quality hogs suitable for use at hog processing plants owned by Morrell.

NOW, THEREFORE, In consideration of the premises and the mutual benefits and covenants contained herein, the adequacy of which are hereby acknowledged, Producer agrees to deliver and sell, and Morrell agrees to accept and pay for, Market Hogs of the quantity and quality hereinafter stated upon the following terms and conditions:

SECTION 1. DEFINED TERMS. Capitalized terms used herein without definition shall have the meanings given to such terms in Schedule A attached hereto and incorporated by reference herein.

SECTION 2. TERM. The Term of this Agreement shall be a period of three (3) years commencing on \_\_\_\_\_, 2000 and ending on \_\_\_\_\_, 200\_\_, subject to the renewal provisions set forth in Section 15 below, the termination provision in Part IV of Schedule C to this Agreement and unless earlier terminated ~~in accordance~~ with the provisions hereof.

### SECTION 3. QUANTITY.

- (a) Morrell agrees to accept delivery and purchase from Producer, and Producer agrees to deliver and sell to Morrell, Producer's Total Production, subject to the following terms and conditions:
  - (i) Producer shall deliver and sell to Morrell during each Delivery Year at least the number of Market Hogs determined by multiplying the Annual Projected Total Production in effect for such Delivery Year by 85%, even if that number of Market Hogs exceeds Producers Total Production during such Delivery Year.
  - (ii) Morrell shall not be obligated to accept delivery and purchase from Producer during any delivery year more Market Hogs than the number of Market Hogs determined by multiplying the Annual Projected Total Production in effect for such delivery year by 115%.
  - (iii) Morrell shall have the right at any time and from time to time during the Term of this Agreement to vary the Weekly Projected Total Production of Market Hogs to be delivered by Producer by notifying Producer in writing of such variance, and the duration of such variance, at least two weeks prior to the effective date of such variance. Notwithstanding any such variance, Producer shall deliver and sell to Morrell and Morrell shall accept and pay for the number of Market Hogs as set forth in paragraphs 3(a)(i) and 3(a)(ii) of this Agreement.
  - (iii) Any Market Hogs available for sale and delivery by Producer in excess of the amount in subsection (ii) above may be sold by Producer to anyone else, subject, however, to Morrell's first right to purchase such Market Hogs as set forth in paragraph 3(b) of this Agreement.
- (b) Producer hereby grants to Morrell for each year of the Term of this Agreement the first right to purchase all of Producer's Total Production of Market Hogs in excess of the number of Market Hogs set forth in Producer's Projection Certificate as Producer's Annual Projected Total Production for each such year. Producer represents and warrants to Morrell that it has, as of the date of this Agreement, no outstanding rights, options or other contractual obligations pursuant to which it is or may be obligated to sell Market Hogs to any person or entity other than Morrell at any time during the Term or any renewed or extended term of this Agreement and that Producer's grant to Morrell of the right described in this Section 3(b)

does not violate, conflict with, or constitute a default under, the terms of any other agreement, commitment, instrument or understanding, written or oral, to which Producer is a party or to which Producer's Market Hogs may be subject. During each year of the Term, Producer shall be entitled to sell, grant or otherwise convey to a person or entity other than Morrell the right to sell Producer's Total Production of Market Hogs in excess of the number of Market Hogs set forth in Producer's Projection Certificate as Producer's Annual Projected Total Production for each such year, if but only if Producer first (i) gives thirty (30) days prior written notice to Morrell of Producer's intent to sell such Market Hogs, and (ii) furnishes Morrell with true, accurate and complete copies of all documentation relating directly or indirectly to such proposed sale, grant or other conveyance, and (iii) the documentation relating to such sale, grant or other conveyance expressly recognizes that the right or option being sold, granted or otherwise conveyed thereby is junior and subordinate to the right granted to Morrell by this Section 3(b). Should Morrell determine to exercise its first right to purchase described herein, Morrell shall notify Producer in writing of Morrell's decision to purchase additional Market Hogs within fifteen (15) days of Morrell's receipt of Producer's notice by indicating the number (or stating "all") of the additional Market Hogs to be purchased and the time period for which the notice shall be effective. All such additional Market Hogs shall be then delivered by Producer and purchased by Morrell under the same terms and conditions as those Market Hogs required to be sold by Producer under the terms and conditions of this Agreement.

- (c) Producer represents and warrants to Morrell that the Projection Certificate dated and effective as of the date on which this Agreement was executed and delivered by the parties is true, accurate and complete in all respects.
- (d) Producer shall be entitled at any time and from time to time after the date of this Agreement (but not more than four (4) occasions during any period of the Term or any renewed or extended term of this Agreement consisting of 52 consecutive Delivery Weeks) to revise its projections concerning its Annual Projected Total Production of Market Hogs during the remainder of the Periods by preparing and delivery to Morrell a Projection Certificate at least two (2) weeks prior to its effective date. Provided however, that no such revision shall decrease the Annual Projected Total Production to a number of Market Hogs that is less than Producer's Total Production.
- (e) Notwithstanding the forgoing, Producer shall, on or before January 15 in each calendar year during the Term or any renewed or extended term hereof, prepare and deliver to Morrell a Projection Certificate that shall be effective as of January 1 in the year such certificate is prepared and

delivered. This Projection Certificate shall not count as one of the four Projection Certificates permitted by Section 3(d).

SECTION 4. QUALITY. Producer agrees to raise and supply to Morrell top quality, healthy and wholesome hogs. Producer shall have a genetic program capable of producing lean, uniform sorted hogs that consistently meet the quality standards of Morrell in existence from time to time. Without limiting the generality of the foregoing, Producer represents and warrants to Morrell and agrees as follows:

- (a) All deliveries of Market Hogs shall meet or exceed the specifications for weight, NPPC level, and average lean yield set forth on Schedule B attached hereto and incorporated by reference herein.
- (b) Any lot of hogs with an average lean percentage lower than 48% shall not count toward the minimum quantity of hogs required to be delivered by Producer under this Agreement. Any such lot of hogs shall be priced at \$1.00 under the weighted average price for the day such hogs were slaughtered, as reported by the USDA for the IA/SMN market, rather than under Schedule C of this Agreement.
- (c) No hogs shall be accepted for delivery pursuant to this Agreement that weigh less than two hundred ten (210) pounds or that are crippled, lame, sick, overfilled, or otherwise unmerchantable.
- (d) Producer shall maintain Morrell-approved facilities to farrow and finish hogs year-round.
- (e) Producer shall use a Morrell-approved feeding program and shall allow Morrell a reasonable opportunity upon prior written notice to inspect its hogs and facilities.
- (f) Producer shall be supervised by a licensed veterinarian and shall properly administer all applicable drugs and follow all appropriate withdrawal procedures applicable thereto.
- (g) Producer shall be on the Pork Quality Assurance Program of America's Pork Producers, and shall be at Level III or working diligently to obtain Level III and shall be on Morrell's HACCP Program.
- (h) Producer understands and acknowledges that, in the light of the Term of this Agreement, industry standards for top quality, healthy and wholesome hogs may change over time. Morrell reserves the right upon reasonable written notice to Producer to modify or supplement the specifications set

forth on Schedule B and the other standards of quality described herein and/or to establish additional standards of quality consistent with evolving industry standards for quality.

- (i) Producer understands and acknowledges that Morrell and \_\_\_\_\_ are not in any way affiliated with each other, other than by the terms of a written agreement between Morrell and \_\_\_\_\_ and that Morrell is in no way liable for or responsible for any of the requirements, responsibilities or obligations that \_\_\_\_\_ may have to Producer.

#### SECTION 5. DELIVERY AND SCHEDULE OF SHIPMENTS.

- (a) Producer agrees to arrange with \_\_\_\_\_ for hog deliveries to Morrell's Swif-Fall plant by the Thursday preceding the next Delivery Week. Unavoidable changes in that schedule will be permitted only by agreement between Producer and \_\_\_\_\_ reached at least twenty-four (24) hours before delivery.
- (b) \_\_\_\_\_ may require Producer to deliver to an alternate site within 200 miles of Morrell's Swif-Fall plant upon twenty-four (24) hours advance notice. Actual freight charge differentials resulting from delivery to other sites shall be paid by Morrell within ten (10) days of written notification by Producer. The parties shall mutually agree upon the freight charge differential in advance of any alternate site delivery.
- (c) Inspection, sorting and weighing shall be performed by Morrell at the delivery location or the plant. Morrell reserves the right to reject any hog that is crippled, lame, sick, overfilled, or otherwise unmerchantable, or that is otherwise not in compliance with the specifications and other standards of quality contained in Section 4 of this Agreement.
- (d) Morrell shall keep all necessary records with respect to the receipt, weighing, and payment of all livestock in accordance with its regular record retention and destruction schedule. Producer may inspect such records during normal business hours at locations designated by Morrell on reasonable notice by Producer to Morrell. Morrell shall supply copies of such records as Producer may reasonably request at Producer's expense.
- (e) Title and risk of loss on the hogs shall pass from Producer to Morrell upon slaughter of the Market Hogs at Morrell's plant.

- (f) Producer and \_\_\_\_\_ shall consult with each other concerning any temporary inability to take or deliver weekly deliveries.

#### SECTION 6. VERIFICATION OF HOG QUANTITY AND QUALITY.

- (a) Morrell will permit Producer a reasonable number of scheduled visits to Morrell's plants during normal operating hours to observe the handling and processing of the hogs delivered under this Agreement so long as prior notice is given to Morrell, and provided that such visits do not unreasonably interfere with the operation of such facilities.
- (b) Producer will permit Morrell a reasonable number of scheduled visits to Producer's facilities during normal operating hours to observe and monitor production and quality so long as prior notice is given to Producer, and provided that such visits do not unreasonably interfere with the operation of such facilities. Producer agrees to provide Morrell on request reasonable information relating to its production management practices.

SECTION 7. PRICE. The price payable by Morrell for Market Hogs delivered by Producer and accepted by Morrell under this Agreement shall be the price determined in accordance with Schedule C attached hereto and incorporated by reference herein. The price shall be payable within the time required by applicable Packers & Stockyards laws and regulations. If Morrell fails to make a required payment within such period, Producer may suspend deliveries of hogs hereunder, but the exercise of such right shall be in addition to any and all other remedies available to Producer under this Agreement.

#### SECTION 8. DEFAULT.

- (a) Producer Defaults. Any of the following events or circumstances shall constitute a default of this Agreement by Producer:
- (i) a failure by Producer to perform any of its obligations under Sections 3 or 4 of this Agreement; or
- (ii) the failure by Producer to meet any ten (10) week average live weight and yield requirement specified on Schedule B; or

- (iii) the failure of Producer to perform any other obligation under this Agreement and the failure of Producer to cure such failure within thirty (30) days following receipt of written notification of such default from Morrell; or
  - (iv) Producer shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing; or
  - (v) an involuntary case or other proceeding shall be commenced against Producer seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days, or an order for relief shall be entered against Producer under the federal bankruptcy laws as now or hereafter in effect; or
  - (vi) the withdrawal by Producer from the hog production business.
- (b) Termination by Morrell Following Producer Default. Upon the occurrence of any of the events described in Section 8(a) (i) through (vi) above, Morrell, in addition to all of its other rights and remedies under applicable law (including, without limitation, the rights and remedies of a buyer under the Uniform Commercial Code), may terminate this Agreement by providing written notice to Producer. The termination shall be complete upon receipt of notice by Producer.
- (c) Morrell Defaults. Any of the following events or circumstances shall constitute a default of this Agreement by Morrell:
- (i) a failure by Morrell to perform any of its obligations under Sections 3 or 7 of this Agreement; or

- (ii) the failure of Morrell to perform any other obligation under this Agreement and the failure of Morrell to cure such failure within thirty (30) days following receipt of written notification of such default from Producer; or
  - (iii) Morrell shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of a taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing; or
  - (iv) an involuntary case or other proceeding shall be commenced against Morrell seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days, or an order for relief shall be entered against Morrell under the federal bankruptcy laws as now or hereafter in effect.
- (d) Termination by Producer Following Morrell Default. Upon the occurrence of any of the events described in Section 8(c) (i) through (iv) above, Producer, in addition to all of its other rights and remedies under applicable law (including, without limitation, the rights and remedies of a seller under the Uniform Commercial Code), may terminate this Agreement by providing written notice to Morrell. The termination shall be complete upon receipt of notice by Morrell.
- (e) Withdrawal By Morrell. In the event Morrell permanently withdraws from the hog slaughter business in either Sioux Falls, South Dakota or Sioux City, Iowa Morrell may terminate this Agreement by providing written notice to the Producer. The termination shall be complete upon receipt of notice and shall not constitute an event of default hereunder.



- (f) Effect of Termination. Termination of this Agreement shall not relieve any party of any liability accrued or for any breach or event of default hereunder, nor affect the continued operation or enforcement of any provision of this Agreement which by its terms is to survive termination. Nothing herein shall prevent any party from seeking specific performance or damages for breach in respect of any right or obligation contained in this Agreement. The rights and remedies set forth in this subsection are non-exclusive and shall be in addition to any other rights or remedies that may otherwise be available at law or equity.

SECTION 9. RIGHT TO SELL HOGS TO OTHER PARTIES. Notwithstanding any other provision of this Agreement to the contrary, at any time Morrell refuses to accept delivery or fails to pay for Market Hogs delivered under this Agreement, Producer shall have the right to sell those Market Hogs on the open market to a third party.

#### SECTION 10. FORCE MAJEURE.

- (a) Neither party shall be liable for failure to perform or delay in performing any act hereunder if such performance is rendered impossible by reason of matters beyond the reasonable control of the party, including but not limited to acts of God, strikes, lockouts, picketing, wars, blockades, riots, disease, epidemics, fire, storms, floods or explosion. These actions shall include but not be limited to
- (i) A failure to settle or prevent any strike or controversy with employees or with anyone purporting or seeking to represent employees shall be considered a matter beyond the reasonable control of the party affected under this subsection, provided such strike affects such party's performance of the requirements of this Agreement; or
  - (ii) Any inability of Producer to supply hogs due to an outbreak of disease;
  - (iii) governmental action limiting or stopping production.
- (b) Once performance becomes commercially possible, the responsibilities and obligations of the parties shall resume again with full force and effect. Where either party claims an excuse for non-performance under this Section 10, it shall give prompt telephonic notice, promptly thereafter confirmed by written notice of the occurrence and estimated duration of the event giving

rise to such excuse to the other party; and it shall give prompt written notice when such event has been remedied and performance can re-commence hereunder.

SECTION 11. NOTICES. All notices required or permitted to be given hereunder, unless otherwise specified, shall be in writing and shall be deemed properly given when delivered in person to the party to be notified, or when sent by courier service, costs prepaid, or when sent by fax (with a copy by regular mail), to the party to be notified, at its address set forth below, or such other address within the continental United States of America as the party to be notified may have designated prior thereto by written notice to the other;

(a) If to Morrell:

John Morrell & Co.  
805 East Kemper Road  
P.O. Box 405020 (45240-5020)  
Cincinnati, OH 45246-2515  
Attention: President  
Fax: (513) 346-7552

With copies to:

Smithfield Foods, Inc.  
200 Commerce Street  
Smithfield, VA 23430  
Attention: Corporate Counsel  
Fax: (757) 365-3025

And to:

John Morrell & Co.  
P.O. Box 5266  
Sioux Falls, SD 57117  
Attention: Mr. Dave Poppen  
Fax: (605) 330-3167

(b) If to Producer:

- (c) Both Morrell and Producer shall also send all notices to:
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SECTION 12. WAIVERS. Failure of Morrell or Producer to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any right or remedies provided herein, or by law, or to properly notify either party in the event of a breach, or the acceptance of payment for any of the warranties or obligations of this Agreement, shall not be deemed a waiver of any right by either party to insist upon strict performance hereof, or any of its rights or remedies as to any such goods regardless when shipped, received or accepted, or as to any prior or subsequent default hereunder, not shall any purported oral modification operate as a waiver of any of the Agreement's terms.

#### SECTION 13. INTERPRETATION.

- (a) The section and subsection headings in this Agreement are for convenience only, and shall not be considered a part of or used in the interpretation of this Agreement.
- (b) The Exhibits and Schedules referred to herein and attached hereto shall be considered a part of this Agreement as if they were set forth in full in the body of this Agreement.

#### SECTION 14: ASSIGNMENT

- (a) This Agreement may not be assigned, nor may the performance obligations of Producer to deliver Market Hogs to Morrell be sold or transferred to any other person or entity without Morrell's prior written approval. Morrell shall have the right in its sole discretion to agree or not agree to any such proposed transfer or sale. The parties understand and agree that Morrell's decision to enter into this Agreement was made in reliance on Producer being the person or entity to deliver Market Hogs to Morrell.

- (b) Any assignment, sale or transfer of Producer's interest in the hog farming operation must include notice to the assignee that any proposed assignment or transfer of this Agreement is subject to receipt of Morrell's prior written approval as set forth in paragraph 14(a) of this Agreement. Any assignment or transfer agreed to by Morrell shall be subject to the terms and conditions of this Agreement, a copy of which shall be provided to the assignee. The obligations of this provision shall also apply with equal force to the transfer of Producer's interest to their successors and assigns.
- (c) Subject to Morrell's prior written approval of any such assignment or transfer, any successor to the interest of Producer and the hog farming operation from which the hogs contracted for under this Agreement are supplied shall be fully responsible to continue to fulfill Producer's obligations and commitments hereunder.

#### SECTION 15: EXTENSIONS OF THE TERM OF THE AGREEMENT

- (a) Morrell shall have the right to extend the term of this Agreement or any subsequent term of this Agreement by providing written notice to Producer no later than one hundred eighty (180) days before the expiration of the initial or any extended term of this Agreement. Any extension of the term of this Agreement shall be for a one year period. Morrell shall have the right to six (6) one year extensions of this Agreement.
- (b) During any extensions of the term of this Agreement, all the terms and provisions of this Agreement shall apply.

SECTION 16. CONFIDENTIALITY. The parties acknowledge and agree that in connection with, or as a result of, this Agreement, each party may be furnishing the other party with certain information which is either non-public, confidential or proprietary in nature. Each party's non-public, confidential or proprietary information will be kept confidential by the other party and shall not, without prior written consent, be disclosed by the other party to any other person or entity or be used by the other party for any purpose other than in connection with this Agreement. For purposes of this Section 16, the term "non-public, confidential or proprietary information" shall not include information which (A) is or becomes generally available to the public other than as a

result of a breach of these conditions, (B) is or becomes known or available to the other party on a non-confidential basis and not in contravention of applicable law from any third party source, or (C) the other party is ordered or required to disclose by any applicable law or competent judicial, governmental or other authority. This Section 14 shall survive the expiration of the Term or any renewed or extended term hereof or earlier termination of this Agreement.

SECTION 17. MAINTENANCE OF DATA. Morrell shall maintain data comparing the price paid by Morrell to Producer under the terms of this Agreement with the IOWA/S.MINN price as published by the USDA for Market Hogs (the "DATA"). Morrell shall provide a copy of such DATA to Producer quarterly. Should Producer fail to deliver to Morrell the quantity of Market Hogs required to be delivered under Section 3 of this Agreement in any year of this Agreement, then in addition to all other remedies available to Morrell under this Agreement and under law, Producer shall pay to Morrell as a penalty for such non-delivery the total difference as shown in the DATA between the amounts paid to Producer under this Agreement and the IOWA/S.MINN price as published by the USDA or \$5.00 per head for each Market Hog not delivered, whichever is greater.

SECTION 18. FINANCIAL INFORMATION. Producer shall provide to Morrell on or before January 31 of each year of the term of this Agreement, financial information with respect to Producer, including Producer's Balance Sheet and all supporting schedules thereto, showing Producer's net worth and all components of such net worth.

#### SECTION 19. MISCELLANEOUS.

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement may be assigned or transferred by Morrell to any successor or transferee of Morrell's applicable business or affairs.
- (b) The provisions contained herein, and in any addendum hereto executed by the parties hereto, constitute all of the terms and conditions of this Agreement and supersede any and all prior agreements and understandings, written or oral. No changes or additions hereto shall be binding upon either party unless in writing and signed by an authorized representative of each party.
- (c) Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration according to the rules then

obtaining, of the American Arbitration Association or such other rules as it may designate. The American Arbitration Association is hereby authorized to make arrangements for any such arbitration to be held under such rules in Cincinnati, Ohio, unless the parties hereto agree upon some other location for the arbitration. This Agreement to arbitrate shall be enforceable, and the judgment upon any award rendered by all or a majority of the arbitrators may be entered, in any court having jurisdiction thereof.

- (d) This Agreement, the relationship of the parties, and all of their respective rights and obligations shall be construed and interpreted in accordance with the laws of the State of Ohio, without giving effect to the principles of conflict of laws thereof.
- (e) Each of the parties to this Agreement represents that it has full authority to enter into and perform all of its obligations under this Agreement and to bind such party to the terms hereof.
- (f) Morrell and Producer agree that the relationship between them is that of independent contractors. Nothing in this Agreement shall be deemed to constitute an appointment of either Producer or Morrell as agent, representative, partner, joint venture or employee of the other party. Neither Producer nor Morrell shall have, nor shall either represent itself as having, any right, power or authority to create any agreement or obligations, either express or implied, on behalf of, in the name of, or binding upon the other party, or to pledge the other's credit or to extend credit in the other's name unless the other party shall provide advance written consent thereto.
- (g) The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, strictly neither for nor against any party hereto, and without implying a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the person who itself or through its agent prepared the same, it being agreed that representatives of both parties have participated in the preparation hereof.
- (h) This Agreement shall not be exclusive to Producer, but instead may be offered by Morrell to other qualified producers.

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- (i) Each of the parties hereto agrees to indemnify and hold the other party harmless from and against any and all loss, cost, liability, damage or expense, including, without limitation, reasonable attorneys' fees and disbursements, including fees and costs of experts, caused or arising from, or in connection with, any breach by such party of any obligation arising under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

JOHN MORRELL & CO.

By: \_\_\_\_\_

Title: \_\_\_\_\_

ACCEPTED AND AGREED TO  
BY PRODUCER:

\_\_\_\_\_  
Producer

By: \_\_\_\_\_  
Signature

Name:

NAME IN WHICH PAYMENT

WILL BE ISSUED

\_\_\_\_\_  
Name

Address: \_\_\_\_\_  
\_\_\_\_\_



# SCHEDULE A TO HOG PROCUREMENT AGREEMENT

## DEFINED TERMS

"Agreement" means this Agreement, as the same may be modified, supplemented or otherwise amended in writing.

"Annual Projected Total Production" means with respect to any Period the number of Market Hogs that Producer in good faith believes will be produced by Producer or on his behalf during such Period, as set forth on Producer's Projection Certificate.

"Delivery Week" means each calendar week during the Term or any renewed or extended term hereof beginning at 12:01 A.M. on Monday and ending at 11:59 P.M. on the following Sunday.

"Delivery Year" means each period of the Term and any renewed or extended Term hereof consisting of fifty-two consecutive Delivery Weeks.

"Market Hogs" means hogs meeting each of standards of quality set forth or otherwise described in Section 4 of the Agreement (including, without limitation, the specifications set forth on Schedule B attached to the Agreement and incorporated by reference in Section 4).

"Morrell" means John Morrell & Co., a Delaware corporation, or any successor or assignee of such corporation.

"Period" means each period set forth on a Projection Certificate, each year of which begins on January 1 and ends on December 31.

"Producer" means the individual corporation, partnership, or other entity so defined on page 1 of the Agreement.

"Projection Certificate" means each certificate prepared and delivered by Producer to Morrell pursuant to Section 3 of the Agreement, each of which shall be substantially in the form attached hereto as Exhibit 1.

"Term" means the period of time during which the Agreement shall remain in effect, as specified in Section 2 of this Agreement, including any extensions thereof pursuant to Section 15 of this Agreement.

"Total Production" means all Market Hogs produced by Producer and all Market Hogs produced by other producers under Producer's direction or control.

"Weekly Projected Total Production" means with respect to any Delivery Week in any Period, the Annual Projected Total Production for such Period divided by the number of whole Delivery Weeks in such Period.

## SCHEDULE B TO HOG PROCUREMENT AGREEMENT

### MARKET HOG SPECIFICATIONS

- ◆ Market Hogs will meet a weekly average/load live weight range of 230-260 pounds, with a 74% average carcass yield over a ten-week period.
- ◆ Market Hogs will be NPPC Level 3 or higher.
- ◆ Market Hogs will provide minimum lean yield of 49%.
- ◆ Producer will participate in the John Morrell HACCP Program.
- ◆ On or before January 1 of each calendar year during the term or any renewed or extended term, Producer shall prepare and deliver an annual Projection Certificate in the form set forth on Exhibit 1 to this Agreement.
- ◆ On or before January 1 of each calendar year during the term or any renewed or extended term, Producer shall prepare and deliver a monthly delivery estimate in the form set forth on Exhibit 2 to this Agreement.
- ◆ Each load will be accompanied by a completed delivery Form I1607.

## SCHEDULE C TO HOG PROCUREMENT AGREEMENT

### VARIABLE INDEX PRICING

Part I. Price. The price payable by Morrell to the Producer for each delivery of Market Hogs by Producer and accepted by Morrell under this Agreement shall be determined by Morrell pursuant to the following formula:

Total Price Per Hundred Live Weight = (Market Price) - (Sort Margin, if any)  $\pm$  (Yield Premium)  $\pm$  (Lean Premium x Multiple Index) + (Price Adjustment)

Under the terms of this Agreement, Morrell reserves the right at any time and from time to time during the term of this Agreement including any extension or renewal thereof, to amend, supplement or otherwise modify its Carcass Merit Program for any reason it deems necessary to reflect changing market conditions or other trends in the meat industry generally.

Part II. Defined Terms used in this Schedule. As used in this Schedule C, the following terms shall have the following meanings:

- (a) The term "Lean Premium" shall mean the premium and/or discounts paid by Morrell to the Producer for carcasses above or below the standard lean percent set by Morrell, as the same may be adjusted from time to time.
- (b) The term "Live Weight" shall mean live weight used to calculate carcass values into dollars/cwt. Live.
- (c) The term "Market Price" shall mean the midsessions Iowa/Minnesota weighted average of forty-nine percent (49%) to fifty-one percent (51%) lean as reported by the USDA Market News Service, or any replacement thereof or successor thereto, during the day of delivery. In the event there is no reporting by the USDA Market News Service for that day of delivery, then the Market Price shall be that established during the most recent USDA Market News Service report prior to the day of delivery. Notwithstanding the foregoing, Morrell reserves the right, during the term of this Agreement, in the event the Iowa Southern Minnesota weighted average is no longer a representative market as agreed on by both parties, to agree on a new price discovery mechanism or index.
- (d) The term "Multiple Index" shall mean the multiple index set by Morrell and agreed to by the Producer as set forth on the attached Variable Index Worksheet.

- (c) The term "Price Adjustment" shall mean the price adjustment for each Market Hog agreed to by Morrell and the Producer as set forth on the attached Variable Index Worksheet.
- (f) The term "Sort Margin" shall mean the discounts given by Morrell to the Producer for carcasses above or below the desired weight as set by Morrell on its then applicable grade & yield matrix.
- (g) The term "Yield Premium" shall mean the premiums and/or discounts paid by Morrell to the Producer for carcasses above or below the standard yield percent set by Morrell, as the same may be adjusted from time to time.

Part III. Insurance. At Morrell's sole discretion, Morrell may enroll Producer in Morrell's Livestock Insurance Program.

Part IV. Termination. Notwithstanding the provisions of Section 2 of the Agreement to the contrary, Morrell may terminate the initial term of the Agreement upon one (1) year's written notice to Producer.

# Variable Index

LEAN PERCENT 52.5

YIELD PERCENT 74.0

2.00 LEAN PREMIUM (LIVE)

0.0 % YIELD vs. STANDARD

MARKET RANGE	INTERIOR IOWA - S. MINN PLANT Wt.Avg. EXAMPLE PRICE	PRICE ADJ.	YIELD PREMIU M LIVE	LEAN PREMIU M LIVE	YIELD & LEAN PREMIU M	(A) PREMIU M & PLANT TOP & PRICE ADJ.	MULTIPL E INDEX	(B) TOTAL PRICE PER HUNDRED LIVE WT.
Below - 24.99	24.00	1.25	0.00	2.00	2.00	27.25	3.20	31.65
\$25.00 - 25.99	25.00	1.25	0.00	2.00	2.00	28.25	3.00	32.25
\$26.00 - 26.99	26.00	1.25	0.00	2.00	2.00	29.25	2.80	32.85
\$27.00 - 27.99	27.00	1.25	0.00	2.00	2.00	30.25	2.60	33.45
\$28.00 - 28.99	28.00	1.25	0.00	2.00	2.00	31.25	2.40	34.05
\$29.00 - 29.99	29.00	1.25	0.00	2.00	2.00	32.25	2.20	34.65
\$30.00 - 30.99	30.00	1.25	0.00	2.00	2.00	33.25	2.00	35.25
\$31.00 - 31.99	31.00	1.25	0.00	2.00	2.00	34.25	1.90	36.05
\$32.00 - 32.99	32.00	1.25	0.00	2.00	2.00	35.25	1.80	36.85
\$33.00 - 33.99	33.00	1.25	0.00	2.00	2.00	36.25	1.70	37.65
\$34.00 - 34.99	34.00	1.25	0.00	2.00	2.00	37.25	1.60	38.45
\$35.00 - 35.99	35.00	1.25	0.00	2.00	2.00	38.25	1.50	39.25
\$36.00 - 36.99	36.00	1.25	0.00	2.00	2.00	39.25	1.40	40.05
\$37.00 - 37.99	37.00	1.25	0.00	2.00	2.00	40.25	1.30	40.85
\$38.00 - 38.99	38.00	1.25	0.00	2.00	2.00	41.25	1.20	41.65
\$39.00 - 39.99	39.00	0.75	0.00	2.00	2.00	41.75	1.10	41.95
\$40.00 - 40.99	40.00	0.75	0.00	2.00	2.00	42.75	1.00	42.75
\$41.00 - 41.99	41.00	0.75	0.00	2.00	2.00	43.75	0.90	43.55
\$42.00 - 42.99	42.00	0.75	0.00	2.00	2.00	44.75	0.80	44.35
\$43.00 - 43.99	43.00	0.75	0.00	2.00	2.00	45.75	0.70	45.15
\$44.00 - 44.99	44.00	0.75	0.00	2.00	2.00	46.75	0.60	45.95
\$45.00 - 45.99	45.00	0.25	0.00	2.00	2.00	47.25	0.50	46.25
\$46.00 - 46.99	46.00	0.25	0.00	2.00	2.00	48.25	0.40	47.05
\$47.00 - 47.99	47.00	0.25	0.00	2.00	2.00	49.25	0.30	47.85
\$48.00 - 48.99	48.00	0.25	0.00	2.00	2.00	50.25	0.20	48.65
\$49.00 - 49.99	49.00	0.25	0.00	2.00	2.00	51.25	0.00	49.25
\$50.00 - 50.99	50.00	0.25	0.00	2.00	2.00	52.25	-0.20	49.85
\$51.00 - 51.99	51.00	0.25	0.00	2.00	2.00	53.25	-0.40	50.45
\$52.00 - 52.99	52.00	0.25	0.00	2.00	2.00	54.25	-0.60	51.05
\$53.00 - 53.99	53.00	0.25	0.00	2.00	2.00	55.25	-0.80	51.65
\$54.00 - 54.99	54.00	0.25	0.00	2.00	2.00	56.25	-1.00	52.25
\$55.00 - 55.99	55.00	0.25	0.00	2.00	2.00	57.25	-1.00	53.25

\$56.00 - 56.99	56.00	0.25	0.00	2.00	2.00	58.25	-1.00	54.25
\$57.00 - 57.99	57.00	0.25	0.00	2.00	2.00	59.25	-1.00	55.25
\$58.00 - 58.99	58.00	0.25	0.00	2.00	2.00	60.25	-1.00	56.25
\$59.00 - 59.99	59.00	0.25	0.00	2.00	2.00	61.25	-1.00	57.25
\$60.00 - 60.99	60.00	0.25	0.00	2.00	2.00	62.25	-1.00	58.25
\$61.00 - 61.99	61.00	0.25	0.00	2.00	2.00	63.25	-1.00	59.25
\$62.00 - 62.99	62.00	0.25	0.00	2.00	2.00	64.25	-1.00	60.25

# EXHIBIT 1 TO HOG PROCUREMENT AGREEMENT

## PROJECTION CERTIFICATE

This Projection Certificate is one of the Projection Certificates referred to in the Hog Procurement Agreement ("Agreement") dated as of \_\_\_\_\_ between John Morrell & Co. and \_\_\_\_\_. Capitalized terms used in this Projection Certificate without definition have the same meaning ascribed to them in the Agreement.

The undersigned hereby certifies that the following represents his/its good faith projections concerning its Annual Projected Total Production of Market Hogs during the Periods set forth below.

Period (Calendar Year)	Annual Projected Total Production
Date January 1, 20__ to December 31, 20__	_____
Date January 1, 20__ to December 31, 20__	_____
Date January 1, 20__ to December 31, 20__	_____
Date January 1, 20__ to December 31, 20__	_____
Date January 1, 20__ to December 31, 20__	_____

In witness whereof, the undersigned has executed and delivered this Projection Certificate this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



EXHIBIT 2 TO HOG PROCUREMENT AGREEMENT

MONTHLY DELIVERY ESTIMATE

Producer Name: \_\_\_\_\_

Date Prepared: \_\_\_\_\_

YEAR	MONTH	HEAD PROJECTED
	JANUARY	
	FEBRUARY	
	MARCH	
	APRIL	
	MAY	
	JUNE	
	JULY	
	AUGUST	
	SEPTEMBER	
	OCTOBER	
	NOVEMBER	
	DECEMBER	

Comments relating to changes from prior projections

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Return by January 1

By: \_\_\_\_\_  
Signature